

## **REMARKS**

### **I. CLAIMS 1-25 AS AMENDED ARE NOVEL AND NONOBVIOUS.**

Independent claims 1, 16, and 18 were rejected under 35 U.S.C. 102(e) as being anticipated by Koether. As amended, claims 1, 16, and 18 include the functionality of generating “a preventative maintenance determination from said acquired data and at least one historical characteristic relating to said asset.” None of the references cited in the Office Action anticipates or even suggests such functionality. Similarly, none of the cited references nor any combination thereof, would render the claimed functionality obvious to one of ordinary skill in the art. The phrase “maintenance history” appears only once (Column 11, Line 41) within the Koether disclosure, and Koether fails to disclose any functionality utilizing maintenance history information much less “an analysis controller . . . that is responsive to said acquired data” and incorporates both acquired data and historical data into maintenance decisions. In Koether, maintenance history is merely stored, providing human beings with the ability to access the information at a later time. In the Applicants’ claims, acquired data and historical data are used in a dynamic fashion to schedule future maintenance. The amendments to the claims are fully supported by the specification as originally filed. Therefore, claims 1, 16, 18, and all of their dependent claims (claims 2-15, 17, 19-25) are in condition for allowance.

### **II. NEW CLAIMS 21-25 ARE NOVEL AND NONOBVIOUS**

As discussed above, Koether fails to disclose the use of both acquired data and historical data to determine the maintenance schedule for an asset. Koether cannot be said to disclose: a single analysis controller serving two local controllers (claim 21); the integration of acquired data from a second or remote asset in determining the maintenance schedule of the first asset (claim 22); the use of historical data relating to the second or remote asset (claim 23); the comparison of assets belonging to the same asset category (claim 24); or any maintenance information outside the recording of maintenance performance dates (claim 25). Koether merely

discloses the storage of historical information, it does not disclose the application of historical information to the maintenance of an asset. Koether cannot be said to use, apply, or transform historical information in any manner. Koether is limited to the storage of maintenance dates.

### **III. DEPENDENT CLAIMS 2-4, 8-11, AND 17 INVOLVE NOVEL AND NONOBVIOUS ELEMENTS**

In the Office Action, dependent claims 2-4, 8-11, and 17 were rejected under 35 U.S.C. 102(e) as being anticipated by Koether. As the Federal Circuit decision in In re Sang Su Lee, 2002 U.S. App. LEXIS 855 (Fed. Cir. January 18, 2002) makes clear, each and every element of the Applicants' claims must be supported by a prior art citation in order to reject Applicants' claims. The Examiner has not fulfilled the requirement of In re Sang Su Lee because Koether fails to disclose each and every element of the claimed invention. Therefore, the Applicants respectfully traverse the rejections and assert that claims 1-4, 8-11, and 16-18 are in condition for allowance.

#### **A. Koether does not disclose a hand held device that is in direct contact with an analysis controller.**

The "portable hand held terminal" of Koether does not anticipate all of the elements of claim 2. Specifically, Koether does not contain the claim element "**wherein said hand held device is in direct contact with said analysis controller**" (claim 2, emphasis added). Figure 8 of Koether shows that the portable hand held terminal (810) communicates with a control center (170) **indirectly** through a kitchen base station (150) and a data network (180). Moreover, Koether teaches that the **portable hand held terminal communicates to the control center via a kitchen base station** (col. 10, lines 23-25). Clearly, Koether discloses indirect contact rather than direct contact between a portable hand held terminal and a control center.

No teaching of Koether, other than the control center, could possibly anticipate the analysis controller of the claimed invention (claim 1). Elsewhere in the Office Action (page 3),

the Examiner asserts that Koether's control center anticipates "an analysis controller located at a second location that is responsive to said acquired data from said local controller for generation an analysis of said acquired data" (claim 1). Based upon Examiner's assertion, Koether's control center is the only item taught by Koether that could possibly anticipate the analysis controller of the claimed invention. No other teaching in Koether performs any analysis of data (col. 9, lines 44-48). Although Koether teaches that a "kitchen base station may contain internally resident databases necessary or useful in the customer billing or accounting process" (col. 5, lines 52-55), nowhere in Koether is disclosure made of a kitchen base station performing any analysis. Koether discloses that the kitchen base stations merely store data in databases and relay communications between the control center and appliance controllers (Figure 8; col. 5, lines 52-55).

Moreover, the control center is also the only teaching of Koether that is located at a different location than a controller connected to a kitchen appliance. Besides not performing any analysis, the kitchen base stations of Koether are located at the restaurant where the appliance controllers are located. Because only Koether's control center could possibly anticipate an analysis controller as claimed, and the control center and portable hand held device communication only indirectly. Thus, Koether clearly does not anticipate a hand held device "**in direct contact with said analysis controller**" (claim 2). Therefore, claim 2 is in condition for allowance.

**B. Koether does not disclose a second computer system disposed between said analysis controller and said hand held device.**

The Office Action does not cite any element in Koether that anticipates a second computer system "**disposed between said analysis controller and said hand held device**" (claim 3, emphasis added). As discussed above, Examiner asserts on page 3 of the Office Action that Koether's control center anticipates the analysis controller of the claimed invention. Examiner also asserts that Koether's portable hand held terminal anticipates the claimed hand

held device (page 3 of the Office Action). However, the Office Action fails to point to any citation in Koether that anticipates a second computer system “disposed between said analysis controller and said hand held device” (claim 3).

Despite the failure of the Office Action to cite any teaching in Koether that anticipates a second computer system “disposed between said analysis controller and said hand held device” (claim 3), the Examiner asserts that Koether anticipates a second computer system that “receives said acquired data, selectively modifies aspects of said acquired data, and forwards said acquired data including said modified aspects, to said hand held device” (claim 4). By this assertion, the Office Action takes mutually exclusive positions regarding Koether’s control center. Koether, as cited elsewhere in the Office Action (page 3), describes Koether’s control center rather than a second computer system “disposed between said analysis controller and said hand held device” (claim 3, emphasis added). Koether’s control center cannot anticipate both the claimed invention’s analysis controller (as discussed above) as well as the second computer system “disposed between said analysis controller and said hand held controller” (claim 3). The analysis controller and the second computer system are distinct elements of the claimed invention. Therefore, Koether fails to anticipate each element of claim 3, and claim 3 and its dependent claim 4 are in condition for allowance.

**C. Koether fails to disclose a second computer system that receives said acquired data, selectively modifies aspects of said acquired data, and forwards said acquired data including said modified aspects to said hand held device.**

As discussed above, Koether’s control center cannot anticipate both the claimed analysis controller (claim 1) and the claimed second computer system “disposed between said analysis controller and said hand held device” (claim 3). If the “second computer system” of claims 3 and 4 is disclosed in Figure 8 of Koether as asserted by the Examiner, then the Examiner asserts that the “kitchen base station” (150) or the “data network” (180) is the “second computer system” of claims 3 and 4. No other association in Koether appears even remotely similar to the

relationship between the analysis controller, the second computer system, and the hand held device of claims 3 and 4. Upon the conclusion of the Examiner that the “kitchen base station” or the “data network” anticipate the second computer system of claims 3 and 4, neither the kitchen base station nor the data network in Koether anticipate each and every element of the second computer system as claimed.

Applicants also traverse the Examiner’s rejection because there is no evidence in Koether that either the kitchen base station or the data network **“selectively modifies aspects of said acquired data, and forwards said acquired data including said modified aspects, to said hand held device”** (claim 4, emphasis added). Koether discloses that kitchen base stations contain data (col. 5, lines 52-55) and transmit communications between a control center and appliance controllers or hand held terminals (Figure 5; col 5, lines 36-38; col. 6, lines 61-65; col. 10, lines 22-25). Similarly, Koether discloses that the data network provides communications between the kitchen base stations and the control center (col. 5, lines 36-38). Nowhere does Koether disclose that either the kitchen base station or the data network **“selectively modifies aspects of said acquired data, and forwards said acquired data including said modified aspects, to said hand held device”** (claim 4, emphasis added). Therefore, claim 4 is in condition for allowance.

If the Examiner disagrees with the distinctions presented above, the Applicants respectfully request that the Examiner specifically attempt to link each of the devices in Koether (including element numbers) to the Applicants’ specific claim elements in order to more clearly and specifically set forth the functionality provided by the various components.

**D. Koether fails to disclose either best practice level or past historical data to provide for comparison with collected data.**

Contrary to the Examiner’s assertion, Koether does not disclose a database that includes **best practice level or past historical data “to provide a base point for comparison with said collected data”** (claims 9 and 17, emphasis added). Although Koether does discuss use of a

database, Koether does not disclose a database that contains data “to provide a base point **for comparison with said collected data**” (claims 9 and 17, emphasis added). Koether does not discuss comparing comparison data with collected data. The only comparison functionality mentioned in Koether is a comparison of a calculated load value to a maximum load value (col. 12, lines 44-46). Comparison of a calculated load value does not anticipate comparison data **for comparison with collected data**.

Moreover, while Koether does disclose historical data in its database, Koether does not disclose using “**past historical data to provide a base point for comparison with said collected data**” (claims 9 and 17, emphasis added). This comparison is not within Koether’s disclosure of a calculation-based comparison. As discussed above, Koether does not disclose using past historical data for comparison with collected data. Moreover, Koether fails to disclose any functionality relating a **best practice level**. Therefore, claims 9 and 17 are in condition for allowance.

**E. Koether fails to disclose user data representing a user accessing an asset.**

Any disclosure in Koether regarding user data or access information is limited to billing functionality (col. 10, lines 45-51) and is not related to a **user accessing an asset**. Other references to identification data in Koether refer to appliance identification rather than identification of a **user accessing an asset** (col. 10, lines 30-44). Thus, Koether fails to disclose “**user data representing a user accessing the asset**” (claim 10, emphasis added). Similarly, there is no mention in Koether of user data that “**includes at least a subset of user identification, and access authorization**” (claim 11). Again, Koether’s disclosure of using a personal identification number is limited to billing functionality and does not relate at all to “**access authorization**” (claim 11) for “**a user accessing the asset**” (claim 10). Therefore, claims 10 and 11 are in condition for allowance.

**F. Koether fails to disclose “a hand held device including a form, said form providing at least a subset of said data values for the entry of foundational data, said foundational data being transmitted to said analysis controller and stored in said database.”**

Although the Examiner rejected claims 16 and 17 under Section 102(e), the Office Action fails to point to any part of Koether that anticipates “a hand held device including a form, said **form providing at least a subset of said data values for the entry of foundational data**, said **foundational data being transmitted to said analysis controller and stored in said database**” (claim 16). Moreover, the Office Action admits on page 5 (in its discussion of Section 103(a) rejections) that Koether does not anticipate each and every element of claim 16. The citation to Koether provided in the Office Action (page 5) refers only to maintenance and repair activities (col. 11, lines 15-29). There, Koether discloses that a user of a portable hand held terminal can send a request to the control center for a transmission to the terminal of diagnostic software or maintenance instructions for the relevant appliance (col. 11, lines 15-29). This disclosure is limited to functionality for making a request from a hand held terminal for a transmission of repair and maintenance items to the hand held terminal. Repair and maintenance data are clearly not “**foundational data**” (claim 16) as claimed.

In Koether, there is no disclosure of a form providing at least a subset of said data values for the entry of foundational data” or of “foundational data being transmitted to said analysis controller and stored in said database” (claim 16). The only disclosure of any sort of form in Koether is related to billing records and invoices (column/line 10/62-11/8). These are merely billing records that are unrelated to a “**form providing at least a subset of said data values for the entry of foundational data**” (claim 16). Therefore, claim 16 and its dependent claim 17 are not anticipated by Koether and are in condition for allowance.

**IV. CLAIMS 5-7 ARE NOVEL AND NONOBVIOUS.**

In the Office Action, claims 5-7 were rejected under 35 U.S.C. 103(a) as being obvious over Koether. The Examiner admits that Koether doesn’t explicitly recite foundational data

being collected prior to acquired data as claimed in claim 6 (page 5 of the Office Action). The Examiner further admits that Koether does not explicitly recite forms used to collect foundational data (page 5 of the Office Action). As discussed above, Koether does not disclose each and every element of “forms providing data values for the entry of foundational data associated with said data values, said data values and said foundational data being transmitted to said analysis controller” (claim 5). For these reasons alone, claims 5 and 6 are not anticipated by Koether.

**A. “Forms providing data values for the entry of foundational data associated with said data values” would not have been obvious to one skilled in the art.**

The functionality “forms providing data values for the entry of foundational data associated with said data values” would not have been obvious to one of ordinary skill in the art. Although forms may be used in other settings to collect data, it is not obvious to use electronic forms over the claimed asset tracking network to collect foundational data related to monitoring assets when other devices such as local controllers are used to acquire asset related information and a separate analysis controller is used to analyze data from so many different sources.

The Applicants’ claims incorporate a particular architecture and structure of devices in the management of asset data. It is contrary to the holding of the Federal Circuit Court of Appeals in In re Thrift, Case Number 01-1445 (Fed. Cir. August 9, 2002) and in In re Sang Su Lee, 2002 U.S. App. LEXIS 855, at \*17-18 (Fed. Cir. January 18, 2002) to reject the Applicants’ based on a high-level generalization that the prior art includes certain distributed processing architectures. The prior art does not disclose the particular structural and relational elements included in Applicants’ claims and any bald assertion of obviousness should be supported with an actual reference of a duly executed affidavit pursuant to MPEP § 2144.03.

Contrary to the assertions of the Examiner, it would not have been obvious to one of ordinary skill in the art to use a hand held device and forms to have foundational data collected



prior to having acquired data collected over an electronic asset tracking system. Therefore, claims 5 and 6 are in condition for allowance.

**B. The Office Action fails to point to any prior art reference citation in relation to the elements of claim 7.**

With regards to claim 7, the Office Action fails to point to any disclosure whatsoever in Koether or to any other basis as to why claim 7 is obvious over Koether. This does not meet the Examiner's burden required by In re Sang Su Lee, 2002 U.S. App. LEXIS 855 because the rejection of each and every element of the claim 7 is not supported by a prior art citation. Applicants' claims and any bald assertion of obviousness should be supported with an actual reference of a duly executed affidavit pursuant to MPEP § 2144.03.

The prior art does not disclose the particular structural and relational elements included in the Applicants' claims. The limitation of receiving parts data through a hand held device in the context of an asset management system using a particular configuration of devices must be specifically addressed by the Examiner. Otherwise, claim 7 is in condition for allowance.

**V. CLAIMS 12-15, 19, AND 20 ARE NOVEL AND NONOBVIOUS.**

Claims 12-15, 19, and 20 were rejected under 35 U.S.C. 103(a) as being obvious over Koether in view of Heagle and Mabuchi. However, the cited references as combined would not have rendered each and every element of the claimed invention obvious to one skilled in the art. Moreover, the cited references contain no affirmative suggestion to combine and actually teach away from their combination. Therefore, claims 12-15, 19, and 20 are in condition for allowance.

**A. The cited references do not teach “an analysis of user training or user certification with respect to a class of assets.”**

The Examiner correctly admits on page 6 of the Office Action that Koether does not teach user training. However, the Examiner’s assertion that Heagle teaches “**an analysis of user training or user certification with respect to a class of assets**” (claim 12) is incorrect. Heagle teaches that food service employees wear identification badges that interact with a system for monitoring and controlling food service requirements related to safety and performance compliance (col. 6, lines 38-62; col. 9, lines 23-26). Heagle’s teachings related to training are limited to a network providing employee training regarding responsibilities to preserve a safe and efficient food service environment (col. 16, lines 30-39). For example, Heagle teaches that an alert will activate when its system detects a violation of sanitary conditions **at a certain facility location** (e.g. an employee fails to wash his hands after using a bathroom facility). Heagle does not teach of “**user training or user certification with respect to a class of assets**” (claims 12 and 20). Therefore, claim 12, its dependent claims, and claim 20 are in condition for allowance.

**B. The cited references do not teach an “authorization subsystem including an asset access mechanism to receive said user identification from a data transmission point associated with the asset”.**

The Office Action fails to make any citation to an authorization subsystem that includes an asset access mechanism. In addition, the Examiner admits on page 6 of the Office Action that neither Koether nor Heagle recites a function of receiving a “user identification from **a data transmission point associated with the asset**” (claim 13). Mabuchi also fails to teach all the elements of claim 13. Mabuchi’s teachings of user identification do not disclose receiving a “user identification from **a data transmission point associated with the asset**” (claim 13). Mabuchi’s user identifications are used to monitor and control entry to and exit from certain locations, particularly dangerous locations of an industrial plant such as where high voltage

power creates a dangerous condition (Figure 26; col. 33, lines 14-39). Mabuchi titles his disclosure, “MAINTENANCE/INSPECTION SUPPORT APPARATUS AND ENTRY/EXIT MANAGEMENT APPARATUS.” The “user identification” citations referenced in the Office Action relate to Mabuchi’s entry/exit management apparatus rather than Mabuchi’s maintenance/inspection support apparatus. Therefore, Mabuchi does not disclose receiving a “user identification from a data transmission point associated with the asset” (claim 13). Mabuchi’s user identification functions in relation to locations rather than in relation an asset. Mabuchi also fails to teach an “asset mechanism permitting operation of the asset upon proper authentication” (claim 15). Therefore, claims 13 and 15 are in condition for allowance. Claim 14 depends from claim 13 and is therefore in condition for allowance.

**C. The cited references fail to teach a comparison of user identification as claimed in claims 13 and 19.**

With regards to claim 13, neither Koether, Heagle, nor Mabuchi teach a “comparison of said user identification from said data transmission point with said user identification from a remote database to confirm the identity of said user” (claim 13). With regards to claim 19, neither Koether, Heagle, not Mabuchi teach a “user identification being compared with a corresponding user identification stored in said asset controller, and providing selective access authorization based on additional user data stored in said asset controller for said user identification.” Moreover, the cited references would not have made the claimed elements obvious to one of ordinary skill. Therefore, claims 13 and 19 are in condition for allowance.

**D. The cited references do not affirmatively suggest their combination and teach away from such combination.**

There is no affirmative suggestion or motivation in the art to combine Mabuchi with Heagle or Koether. Such a combination is particularly inappropriate when the food service environment of Koether and Heagle is contrasted with the industrial plant operations of Mabuchi.

Even if there were some motivation to combine Mabuchi with Heagle or Koether, there is clearly no affirmative motivation or hint to do so outside of food service environment. Heagle teaches away from combination with Mabuchi: “The principal motive for this interactive network is to maintain control of the food processing methods and employee involvement in this process ensuring compliance with the latest HACCP (Hazard Analysis of Critical Control Points) and the Federal Government’s Model Food Code Guidelines” (col. 8, lines 44-49). In contrast, Mabuchi’s monitoring of industrial plants for safety purposes has nothing to do with food processing. Most importantly, none of the three cited references focus on the functionality of managing assets. The vastly different goals and perspectives of the three cited references teach away from each other, and the Applicants’ claims. Therefore, claims 12-15, 19, and 20 are in condition for allowance.

**CONCLUSION**

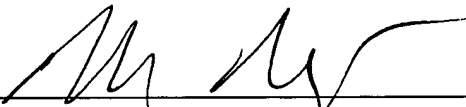
As amended, claims 1-25 are in condition for allowance. If it is believed by the Examiner that the claims as amended are not in condition for allowance, the Applicants respectfully request an interview to discuss the prior art references, and the specific prior art elements believed to correlate with the specific claim elements. It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

Respectfully submitted,

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